

MT LEGISLATIVE HISTORY

Chapter 472 1981

Bill H 13 S _____

Original bill & hist. C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Jan 09 ✓ C

Hearing Date(s) Mar 03 ✓ C

Jan 14 ✓ C

Mar 26 ✓ C

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Date Out Jan 15 ✓ C

Mar 26 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

4--March 3, 1981

on valuations placed by trending factors. I would urge you to keep in mind that we are talking about value, not cost, and fair market value is what we have been ordered to arrive at. Sally Price, Assessor's Association, said they are finding that the use of the trending factor is very useful in arriving at market value. We do not always get sheets back from taxpayers listing their property, so this has been a useful assessment tool.

Senator Thomas closed, saying he thought the reason there are not many tax appeals is that the process is too expensive. He hopes this bill would streamline the mechanism.

Senator Goodover: If you bought a desk for \$300 and would now pay \$500, what you are really doing is adding to the inflationary spiral

Ellen: Our mandate is to tax at fair market value. As long as we have to do that we have to use today's values. If you don't agree with fair market value, that change should be made.

Senator Steve Brown said his recommendation would be to amend the statute itself.

Larry Huss said the standard for valuation of property has always been fair market value. He said original cost depreciated is fair market value.

Ellen Feaver said if you use cost-depreciated method on a \$200 vs. \$450 basis, there is substantial impact. The trending factor is a concept being used across the board to arrive at fair market value.

The hearing was closed on Senate Joint Resolution 26.

CONSIDERATION OF HOUSE BILL 13:

"AN ACT TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE INTEREST UPON DELINQUENT TAXES AND PENALTIES IN CERTAIN CASES; AMENDING SECTION 15-1-206, MCA."

Representative Fabrega, District 44, said House Bill 13 was put in at the request of the Revenue Oversight Committee. Last session we passed a bill that allowed the department to waive penalty for late payment of taxes within a five-day period leeway of the time due, but we did not take care of the interest. House Bill 13 tends to humanize the Department of Revenue. The Senate Committee will have extensive amendments offered created by the fact that the State of Alaska has had monies refunded to them.

Ellen Feaver said the Department of Revenue is eager to see this bill implemented. Larry Weinberg passed out proposed amendments to House Bill 13, saying that Montana gets Alaska tax as dollar for dollar credit on Montana tax. The proposed amendments give the department authority to waive or evade the interest that has accrued from April 1980 to April 1981. Amendments are Attachment #

The hearing was closed on House Bill 13.

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/24/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.		✓	

Each day attach to minutes.

Proposed Amendments to HB 13

Third Reading Copy

1. Amend Title, line 7
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
2. Amend Page 1, line 24
Following: line 23
Insert: " (3) The department may waive or abate interest accrued prior to April 15, 1981, on additional individual income tax liability for tax years beginning after December 31, 1978, and on or before December 31, 1979, due to the refunding of Alaska personal income tax during the period January 1, 1980, through December 31, 1980.

Section 2. Effective date. This act is effective on passage and approval."

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 26, 1981

The 57th meeting of the committee was called to order at 7:30 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: Senator Manley absent, all other members present.

DISPOSITION OF HOUSE BILL 156:

There were technical amendment changes to be made to HB 156. A motion was made we reconsider HB 156 for such amendment by Senator Towe. The comments clarified the technical amendments and Senator Towe moved the amendments be adopted. It was voted unanimously to so do.

Senator Eck moved HB 156 BE CONCURRED IN, as amended. Senator McCallum made a substitute motion to place all other bills that have fiscal impact on the state revenues on the table until we get a better handle on it. Senator McCallum moved to table. He withdrew the table motion and made a motion we hold until we receive the revised fiscal note for HB 156. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 561:

The chairman announced a letter had been sent to John Larson requesting the return of House Bill 561 so we could reconsider our actions. A motion was made to concur in HB 561. Motion carried unanimously.

DISPOSITION OF HOUSE BILL 13:

Senator Elliott said the amendments that were handed out yesterday were drafted and the Department of Revenue suggested some amendments.

ELLIOTT: The main change appears on page 2, sub-paragraph 6, where they extended time to 60 days from 30 days before the penalty will be imposed for late payment. When notice of late payment is sent out, the 30-days notice is used up pretty quickly and the recommendation was to extend to 60 days. I move the amendments. The amendments were voted unanimously.

Senator Norman made a motion the bill BE CONCURRED IN AS AMENDED. The vote was unanimous in favor.

DISPOSITION OF HOUSE BILL 63:

Ellen Feaver said she would try to come up with a fiscal note on HB 63.

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/26/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.		✓	
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 26

1981

MR. PRESIDENT

We, your committee on TAXATION,

having had under consideration

HOUSE

Bill No. 13

Fabrega (Elliott)

Respectfully report as follows: That

HOUSE

Bill No. 13

third copy (blue), be amended as follows:

1. Title, line 7.

Following: "CASES"

Insert: "AND TO EXTEND THE PERIOD BEFORE A PENALTY MAY BE ASSESSED"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-1-206,"

Insert: "15-30-142, AND 15-30-323,"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 23.

Following: line 22

Strike: "penalty or"

XXXXX
BOA468

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3. Page 1.

Following: line 23

Insert: "(3) Whenever the department is notified of a change in federal taxable income as the result of a federal adjustment or upon filing an amended federal return, as provided for in 15-30-304, the department shall abate the interest on the additional tax liability from the date the department is notified until the department sends the statement of increased tax liability to the taxpayer.

(4) The department may waive or abate interest accrued prior to July 1, 1981, on additional individual income tax liability for tax years beginning after December 31, 1978, and on or before December 31, 1979, due to the refund of Alaska personal income tax during the period January 1, 1980 through December 31, 1980.

Section 2. Section 15-30-142, MCA, is amended to read: "15-30-142. Returns and payment of tax-penalty and interest-refunds-credits.

(1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$940 and married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$1,880 shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by \$800 for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the

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tax so computed is greater by \$1 than the amount withheld and/or paid by estimated return as provided in this chapter.

If the amount of tax withheld and/or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 60 days after the first notice of the amount is mailed to the taxpayer.

Section 3. Section 15-30-323, MCA, is amended to read: "15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6) is not made within 30=60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% thereof; provided, however, that no deficiency penalty shall be less than \$2. Interest will be computed at the rate of 9% per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of 9% per annum from the time when the return was originally required to be filed to the time of payment.

Section 4. Effective date. This is effective on passage and approval."

And as so amended
BE CONCURRED IN

MINUTES OF THE HOUSE TAXATION COMMITTEE MEETING
January 9, 1981

Chairman Nordtvedt called the meeting of the Taxation Committee to order at 8 a.m. on Friday, January 9, 1981 in Room 102 of the State Capitol. All members were present except Rep. Burnett, who was excused and Rep. Brand, who was absent.

Chairman Nordtvedt announced that Fiscal Notes had been ordered on all bills which indicated a possible necessity for them and that they would be available in the near future. He then outlined the basic sequence to be followed for bill hearings in the committee; namely, first proponents would be heard, then opponents; after which testimony would be closed, then questions would be permitted, after which the sponsor would be allowed to make a closing statement.

HOUSE BILLS 13, 18 and 22 were scheduled for hearing and testimony began on HB 13.

HOUSE BILL 13: Rep. Fabrega, the sponsor of this bill, said that it had been drafted at the request of the Revenue Oversight Committee, and that it would allow the Dept. of Revenue to use its own discretion in waiving the interest on a tax penalty if the tax is paid within five days of its due date. At present, the Dept. has the power to waive the penalty, but not the interest. There were no further PROPONENTS for HB 13.

There were no OPPONENTS to HB 13. Ken Morrison, Dept. of Revenue, spoke as neither a proponent nor an opponent, but wished to submit that the granting of discretionary powers does cause problems for the Dept.

QUESTIONS were then asked concerning HB 13. Rep. Bertelsen expressed concern about the potential for abuse of the discretionary privilege. Mr. Morrison responded that the bill did not address this issue and that it was only attempting to allow the Dept. to waive the interest on a penalty it was already permitted to waive. Rep. Williams asked Rep. Fabrega if there were many instances when penalties were waived and Rep. Fabrega replied that this was not the case to his knowledge, but the bill would allow flexibility to treat the taxpayer as an individual. Rep. Sivertsen questioned whether the added language beginning on Line 20 might need in its substance a reference to the five day limit. Rep. Fabrega did not feel this was necessary. Discussion followed concerning setting the cut-off for waiving the interest at \$100. Mr. Morrison stated that setting a limit causes problems, and that the original bill had no monetary limit. The committee members were in agreement, however, that a line had to be drawn somewhere. The \$100 limit was placed by the Revenue Oversight Committee. Rep. Fabrega assured Rep. Williams that for those applying for late filing there would still be an interest charge assessed. Mr. Morrison did not feel that passage of the bill would cause an extra burden to the Dept. of Revenue.

In closing, Rep. Fabrega stressed that the intent of the bill was to eliminate some of the paperwork necessary to collect a few dollars and also it would enable the Dept. of Revenue to treat taxpayers as individuals.

HOUSE BILL 84, sponsored by Rep. Dan Yardley was then heard. This bill also raises the tax exemption to \$1,200. Traditionally, Montana had a \$600 rate. In 1975 it went up to \$650; and in the previous session of the Legislature it went to \$800. This bill would reduce the current exemption from \$1,250 to \$1,200. This shouldn't be a significant change from what is being currently taken in by the State. There were no further PROPONENTS.

There were no OPPONENTS to HB 84. Questions followed.

It was confirmed that there was no difference between HB 84 and HB 27.

Rep. Yardley then closed, and the hearing was closed on HB 84. The Committee then went into EXECUTIVE SESSION.

HOUSE BILL 17 was taken into consideration. Rep. Burnett moved that HB 17 DO PASS. Chairman Nordtvedt moved to amend the bill, so that the interest charged on overpayments would be the same as whatever rate was being charged on delinquent taxes due. This would allow the bill to fit into any later changes to the current rate of 9%. Rep. Burnett seconded the motion to amend the bill. There was no discussion. The question was called for and the motion to AMEND HB 17 carried unanimously. The motion of DO PASS AS AMENDED was then voted on and carried unanimously.

HOUSE BILL 13 was then considered. Rep. Harrington moved that HB 13 DO PASS. Discussion followed. Rep. Dozier said that Ken Morrison from the Dept. of Revenue had told him that the former Director of the Dept. of Revenue had wanted this bill introduced. Rep. Sivertsen said that he felt the Dept. of Revenue was apprehensive about being criticized for using its discretionary powers.

Rep. Bertelsen expressed concern that waiving interest due would take revenue away from the State.

It was confirmed that the five-day limit did not always apply; that the bill would apply to the entire Title. Rep. Dozier stressed that the bill was just trying to rectify an inequity. The question was then called for, and the motion carried with Reps. Williams, Bertelsen, Devlin, Underdal and Switzer opposed.

Rep. Bertelsen then moved that HB 34 DO PASS. Discussion followed. Rep. Brand expressed his opposition to deleting Subsection (1) (c) in the bill, stating that there were only a handful of people that deletion of this subsection would affect. Rep. Devlin added that the D.A.V. Representatives he had met with had made no reference to wanting the subsection deleted and hadn't even been considering the

STANDING COMMITTEE REPORT

January 15, 1971

MR. SPEAKER

We, your committee on TAXATION

having had under consideration House Bill No. 13

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE INTEREST UPON DELINQUENT TAXES AND PENALTIES IN CERTAIN CASES; AMENDING SECTION 15-1-206, MCA."

Respectfully report as follows: That House Bill No. 13

DO PASS